

IN THE CHANCERY COURT FOR DAVIDSON COUNTY TENNESSEE

AURELIO GALLI, PH.D.,

Plaintiff,

v.

BETHANN MCLAUGHLIN, PH.D.,

Defendant.

)
)
)
)
)
)
)
)
)
)

No. 18-1137-III

JURY DEMAND

2018 DEC 13 AM 10:14
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
D.C. & M.

FILED

ANSWER

Defendant BethAnn McLaughlin (“Dr. McLaughlin” or “Defendant”) for her Answer to the Complaint brought by Plaintiff Aurelio Galli (“Plaintiff”), states as follows:

1. The allegations in Paragraph 1 are denied and strict proof thereof is demanded.
2. The allegations in the first sentence of Paragraph 2 of the Complaint are denied and strict proof thereof is demanded. The remaining allegations contained in Paragraph 2 of the Complaint refer to excerpts of unidentified postings made on social media, which speak for themselves and require no further response in this Answer.
3. The allegations in Paragraph 3 are denied and strict proof thereof is demanded.
4. Upon information and belief, the allegations in Paragraph 4 of the Complaint are admitted.
5. The allegations in Paragraph 5 of the Complaint are admitted.
6. Defendant admits that venue lies in this Court against defendants who reside in this district and for conduct and transactions that arise in this district, as alleged in Paragraph 6 of the Complaint. However, Defendant denies that she engaged in an unlawful conduct and further denies that she is liable to Plaintiff under any theory of law for any amount sought.

COPY

7. The allegations in Paragraph 7 of the Complaint are denied as phrased and strict proof thereof is demanded.

8. The allegations in Paragraph 8 of the Complaint are denied and strict proof thereof is demanded.

9. The allegations in Paragraph 9 of the Complaint are admitted.

10. Defendant is without sufficient knowledge or information to admit or deny the allegations contained in Paragraph 10 of the Complaint and, therefore, neither admits nor denies them, but demands they be proven.

11. Defendant is without sufficient knowledge or information to admit or deny the allegations in Paragraph 11 of the Complaint and, therefore, neither admits nor denies them, but demands they be proven.

12. In response to the allegations in Paragraph 12, Dr. McLaughlin admits that she was interviewed by Vanderbilt in connection with its Title IX investigation into allegations against Plaintiff. Dr. McLaughlin further admits that she was mistreated and retaliated against as a result of her participation in that investigation. The remaining allegations in Paragraph 12 of the Complaint are denied as phrased and strict proof thereof is demanded.

13. The allegations in Paragraph 13 of the Complaint are denied and strict proof thereof is demanded.

14. The allegations in Paragraph 14 of the Complaint are denied and strict proof thereof is demanded.

15. It is admitted that Dr. McLaughlin is the author of the article entitled “‘Winning’ a Title IX case,” which was posted on the *Prof-life Substance* blog on December 20, 2016. The

remaining allegations in Paragraph 15 of the Complaint are denied and strict proof thereof is demanded.

16. The allegations contained in Paragraph 16 of the Complaint refer to statements allegedly made in the document attached to the Complaint as Exhibit A, which speaks for itself and requires no further response in this Answer. To the extent a response is deemed required, the allegations in Paragraph 16 are denied as phrased. Defendant expressly denies that she is liable to Plaintiff under any theory of law for any amount.

17. The allegations in the first sentence of Paragraph 17 of the Complaint are denied and strict proof thereof is demanded. The remaining allegations contained in Paragraph 17 of the Complaint refer to statements allegedly made in an article attached to the Complaint as Exhibit A, which speaks for itself and requires no further response in this Answer.

18. The allegations in the first sentence of Paragraph 18 of the Complaint are admitted. The remaining allegations contained in Paragraph 18 are denied and strict proof thereof is demanded.

19. In response to the allegations in Paragraph 19, Defendant admits that she has identified herself as the author of the article attached as Exhibit A to the Complaint in postings to her Twitter account and other social media accounts. The remaining allegations in Paragraph 19 of the Complaint are denied and strict proof thereof is demanded.

20. The allegations in Paragraph 20 of the Complaint are denied and strict proof thereof is demanded.

21. The allegations in Paragraph 21 of the Complaint are denied and strict proof thereof is demanded.

22. The allegations in Paragraph 22 of the Complaint are denied and strict proof thereof is demanded.

23. Defendant incorporates by reference her responses to paragraphs 1 through 22 of the Complaint as if set forth fully herein.

24. The allegations in Paragraph 24 of the Complaint are denied and strict proof thereof is demanded.

25. The allegations in Paragraph 25 of the Complaint are denied and strict proof thereof is demanded.

26. The allegations in Paragraph 26 of the Complaint are denied and strict proof thereof is demanded.

27. The allegations in Paragraph 27 of the Complaint contain conclusions of law, to which no response is required. To the extent that a response is deemed required, Defendant denies the allegations in Paragraph 27 and demands strict proof of the same. Defendant further denies that she is liable to Plaintiff under any theory of law for any amount sought.

28. Defendant incorporates by reference her responses to paragraphs 1 through 27 of the Complaint as if set forth fully herein.

29. The allegations in Paragraph 29 are denied and strict proof thereof is demanded.

30. The allegations in Paragraph 30 are denied and strict proof thereof is demanded.

31. The allegations in Paragraph 31 are denied and strict proof thereof is demanded.

32. The allegations in Paragraph 32 of the Complaint are denied and strict proof thereof is demanded.

33. The allegations in Paragraph 33 of the Complaint contain conclusions of law, to which no response is required. To the extent that a response is deemed required, Defendant

denies the allegations in Paragraph 33 and demands strict proof of the same. Defendant further denies that she is liable to Plaintiff under any theory of law for any amount sought.

34. The remainder of the Complaint contains Plaintiff's prayer for relief, to which no response is required. Nevertheless, Defendant denies that she is liable to Plaintiff under any theory of law for any amount sought.

35. Any allegation within Plaintiff's Complaint that is not expressly admitted is hereby fully and specifically denied.

AFFIRMATIVE DEFENSES

36. Defendant affirmatively asserts that Plaintiff's Complaint, in whole or in part, fails to state a claim for which relief can be granted.

37. Defendant affirmatively asserts that some or all of Plaintiff's claims are barred by the applicable statutes of limitation and/or repose. Specifically, Defendant asserts that any and all allegedly defamatory or disparaging statements contained in or based on the Title IX Posting attached to Plaintiff's Complaint as Exhibit A are time-barred.

38. Defendant affirmatively asserts that Plaintiff's Complaint fails to state a claim for which relief can be granted because Plaintiff has failed to plead facts establishing that Defendant made any defamatory or disparaging statement that could reasonably be understood as referring to or concerning Plaintiff.

39. Defendant affirmatively asserts that Plaintiff's claims are barred because any allegedly defamatory or disparaging statements made by Defendant were true, were substantially true, or were matters of opinion.

40. Defendant affirmatively asserts that any allegedly defamatory or disparaging statements made by Defendant are protected by the First Amendment and the state and federal constitutional protections afforded free speech.

41. Defendant affirmatively asserts that any allegedly defamatory or disparaging statements made by Defendant concerning Plaintiff were absolutely or conditionally privileged because they were involved matters of significant public interest and concern.

42. Defendant affirmatively asserts that any allegedly defamatory or disparaging statements made by Defendant of and concerning Plaintiff were not made with knowledge of their falsity or with a reckless disregard of their falsity.

43. Defendant affirmatively asserts Plaintiff's claims are barred because the allegedly defamatory or disparaging statement or statements set forth in the Complaint are rhetorical hyperbole or puffery.

44. Defendant affirmatively asserts Plaintiff's claims are barred because Plaintiff has suffered no harm, to his reputation, career, or otherwise, as a result of the alleged defamatory or disparaging statement or statements set forth in the Complaint or as a result of any other conduct set forth in the Complaint.

45. Defendant asserts, to the extent proven applicable through discovery, the defenses of waiver, estoppel, fraud, illegality, laches, and doctrine of unclean hands.

46. Defendant affirmatively asserts that Plaintiff's claim for punitive damages cannot be maintained unless Defendant's liability for punitive damages and the appropriate amount of punitive damages are established by clear and convincing evidence. Moreover, any award of punitive damages would violate Defendant's due process rights guaranteed by the Fifth Amendment to the United States Constitution.

47. Defendant affirmatively asserts that Plaintiff's claim for punitive damages cannot be maintained against her, because any award of punitive damages would be by a jury that (1) is not provided standards of sufficient clarity for determining the appropriateness, and the appropriate size, of a punitive damages award; (2) is not adequately instructed on the limits on punitive damages imposed by the applicable principles of deterrence and punishment; (3) is not expressly prohibited from awarding punitive damages, or determining the amount of an award of punitive damages, in whole or in part, on the basis of invidiously discriminatory characteristics, including the wealth of Defendant; (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity the conduct or mental state that makes punitive damages permissible; and (5) is not subject to adequate trial court and appellate judicial review for reasonableness and furtherance of legitimate purposes on the basis of objective standards. Any such verdict would violate Defendant's due process rights guaranteed by the Fifth Amendment to the United States Constitution.


48. Defendant affirmatively asserts that the Complaint fails to allege a cause of action that would justify an award of reasonable attorney's fees and as such, this request should be stricken from Plaintiff's prayer for relief.

49. Defendant affirmatively asserts that her investigation of this matter is not yet complete and, therefore, Defendant specifically reserves the right to amend this Answer and plead additional facts and/or defenses, including affirmative defenses and compulsory and/or permissive counterclaims, and/or third party claims that may be supported by said investigation and discovery.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff's Complaint be dismissed with prejudice and all costs, including discretionary costs pursuant to Rule 54 of the Federal Rules of Civil Procedure, assessed against Plaintiff and that Defendant be granted such other relief as the Court deems appropriate. Defendant demands a jury to hear this case.

Respectfully submitted:

BONE MCALLESTER NORTON PLLC

By: 
J. Alex Little (TN BPR No. 29858)
Emily H. Mack (TN BPR No. 31217)
511 Union Street, Suite 1600
Nashville, TN 37219
615-238-6391 (office)
615-238-6301 (fax)
alex.little@bonelaw.com
emack@bonelaw.com

Attorneys for Dr. McLaughlin

CERTIFICATE OF SERVICE

I hereby certify on the 13th day of December, 2018, a true and accurate copy of the foregoing document was served on the following parties or their counsel of record by regular United States Mail and e-mail:

W. Scott Sims
Mark W. Lenihan
SIMS FUNK, PLC
3322 West End Avenue, Suite 410
Nashville, TN 37221
ssims@simsfunk.com
mkenihan@simsfunk.com

